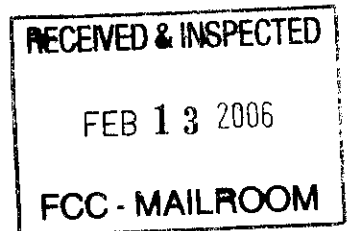


Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554



In the Matter of)
Implementation of Section 621(a)(1) of)
The Cable Communications Policy Act of 1984) MB Docket No. 05-311
As amended by the Cable Television Consumer)
Protection and Competition Act of 1992)

COMMENTS OF THE CITY OF IMPERIAL BEACH, CALIFORNIA

These Comments are filed by the City of Imperial Beach in support of the comments filed by the National League of Cities and the National Association of Telecommunications Officers and Advisors ("NATOA"). Like NLC and NATOA, Imperial Beach believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the facts of video franchising in our community.

SUMMARY

The *Notice* was initiated as the result of complaints by wireline telephone companies that the local franchise requirements constitute an unreasonable barrier to the timely deployment of internet protocol (IP) based services.¹ The *Notice* asks if local franchise authorities (LFAs) are "carrying out legitimate policy objectives" or "hindering" the Commission's policy objectives of increased competition and accelerated broadband deployment.²

Franchise rules are intended to ensure the public health, safety and welfare, prevent economic redlining, provide for reasonable build-out requirements and ensure provision of public, educational and government channels. They also promote competition by providing an equitable framework for entry into the video market and reasonable compensation for the use of the public right-of-way. The time, money and effort now being spent by the wireline telephone companies to avoid franchise rules exceeds that necessary to obtain a local franchise.

Cable Franchising in Our Community

Imperial Beach is a small governmental jurisdiction in San Diego County, California with a population of 26,710. San Diego County has a population of almost three million citizens who are served by three major cable systems: Adelphia Communications Corporation ("Adelphia") with

¹ *In the Matter of Annual Assessment of the Status of Competition in the Market for the delivery of Video Programming*, MB Docket No. 05-255 ("Video Competition Docket").

² *Notice* ¶ 10.

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approximately 75,000 subscribers, Time-Warner, Inc. ("Time-Warner") with nearly 200,000 subscribers and Cox Communications, Inc. ("Cox") with about 500,000 subscribers. Imperial Beach is served by Time-Warner, Inc system, which provides video and DSL but not telephone service to its customers. Wireline telephone service in Imperial Beach is provided by AT&T (formerly SBC Communications, Inc. and hereinafter called "AT&T") which is proposing to build a fiber to the node ("FTTN") system to provide IPTV and broadband systems to the citizens and businesses in Imperial Beach. As of the date of this filing, there have been no applications for a competitive cable franchise in Imperial Beach.

Competitive Cable Systems

Our community has negotiated cable franchises since 1979. However, Imperial Beach has never been approached by a competitive provider to provide service. Recently Imperial Beach was approached by Bell Operating Company to provide service. In January 2006, AT&T's representatives met with officials from Imperial Beach for an informational meeting to discuss "Project Lightspeed," which is a Fiber to the Node ("FTTN") technology that can be deployed faster and at a lower cost than Fiber to the Premises ("FTTP"). FTTN is an interim technology to extend fiber deep into neighborhoods to nodes housed in cabinets to be placed in the public right-of-way. These cabinets are approximately 5' high, 2' deep and 4' wide. Existing copper wires will then be used to connect to each home located within three thousand (3,000) feet or less of the node. This will allow the AT&T customer to receive service at a speed of 20 Mbps or more. In new housing developments, AT&T will use fiber to the premises ("FTTP"), which gives the user very high speed with virtually unlimited bandwidth.

Imperial Beach believes that having advanced telecommunications services available to our citizens and businesses is a quality of life issue to which we are fully committed. Our community supports and welcomes telecommunications competition. Imperial Beach would be willing to work with AT&T to develop a franchise agreement for its proposed television services, pursuant to our current Municipal Code.

This is a good example of a situation in which city officials have the best understanding of local needs and conditions. Imperial Beach is anxious to have AT&T enter the video market and make available improved broadband service to its citizens. The Commission can be assured that when AT&T, or any other competitor, submits an application for a franchise agreement it will be as expeditiously processed as possible.

Conclusions

The local cable franchising process functions well in Imperial Beach. As the above information indicates, we are experienced at working with cable providers to both see that the needs of the local community are met to ensure that the practical business needs of cable providers are taken into account.

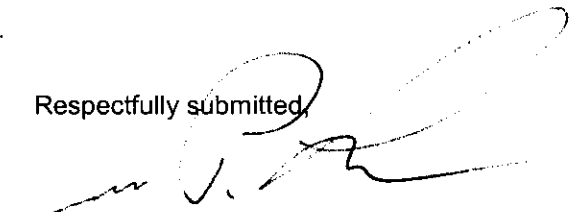
Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of specifically local interest.

Finally, local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

The City of Imperial Beach therefore respectfully requests that the Commission do nothing to interfere with local government authority over franchising or to otherwise impair the operation of the local franchising process as set forth under existing Federal law with regard to either existing cable service providers or new entrants.

Respectfully submitted,



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